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February 22, 2000

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
Portals II, Filing Center, TW-A325
445 12th Street, S.W.
Washington, D.C. 20554

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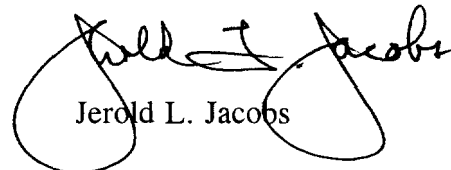
Re: Establishment of a Class A Television Service
MM Docket Nos. 00-10 and 99-292

Dear Ms. Salas

On behalf of Mike Simons, licensee of television station KTAQ(TV), Greenville, Texas transmitted herewith are an original and six (6) copies of his Reply Comments in the above-captioned rulemaking proceeding implementing the Community Broadcasters Protection Act of 1999.

If you have any questions concerning the Reply Comments, please direct them to the undersigned.

Very truly yours


Jerold L. Jacobs

Enclosure

cc: Ms. Wanda Hardy (w/diskette)
International Transcription Service (w/diskette)
Keith Larson, FCC, MMB, 2-C420
Shaun A. Maher, FCC, MMB, 2-A820

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BEFORE THE
Federal Communications Commission

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In the Matter of)	
)	
Establishment of a Class A)	MM Docket No. 00-10
Television Service)	MM Docket No. 99-292
)	RM-9260

TO: The Commission

REPLY COMMENTS OF MIKE SIMONS

MIKE SIMONS ("Simons"), licensee of Station KTAQ(TV), Greenville, Texas, by his attorneys, pursuant to §1.415 of the Commission's Rules, hereby submits his Reply Comments on Paragraphs 32-33 ("DTV Maximization") of the Order and Notice of Proposed Rule Making ("NPRM"), FCC 00-16, released January 13, 2000, and the Comments filed in this proceeding pertaining thereto.

I. Introduction

1. The language in the Community Broadcasters Protection Act of 1999 ("CBPA"), Section 5008 of Pub. L. No. 106-113, 113 Stat. 1501 (1999), Appendix I, *codified at* 47 U.S.C. §336(f), is somewhat ambiguous regarding the protection to be accorded by Class A applicants to DTV stations seeking to replicate or maximize their service areas, and Section (f)(1)(D) appears to tie replication and maximization to resolution of technical problems. However, in his February 10, 2000 Comments (¶¶s 4-5), Simons maintains that Section (f)(7)(A) requires all Class A applicants to protect DTV stations seeking to replicate or maximize their "service areas" and/or "power", as long as the station seeking to maximize has complied with the notification

and application requirements of Section (f)(1)(D). Most importantly, Sections (f)(1)(D) and (f)(7)(A) of the CBPA must be read together to establish the full measure of interference protection to which full-power licensees are entitled. In other words, Sections (f)(1)(D) and (f)(7)(A) should be treated as cumulative interference protection devices that are not dependent upon each other. This is the only interpretation that is congruent with the intent of Congress to protect the ability of DTV stations to replicate and maximize their service areas.

II. Interference-Protected “Maximization” Includes Site Relocation

2. Upon further examination of the NPRM and the recently filed Comments of other parties, Simons wishes to amplify his views concerning Paragraph 32 of the NPRM, where the Commission asks whether the words “maximization” and “maximize” in Sections (f)(1)(D)(ii) and (f)(7)(A)(ii) of the CBPA, respectively, refer only to situations in which stations seek power and/or antenna height greater than the allotted values, or whether the term also refers to stations seeking to extend their service area beyond the NTSC replicated area by relocating their station from the allotted site.

3. This matter is particularly important to Simons because Station KTAQ has pending a non-“checklist” DTV application for its allotted DTV Channel 46, which: (a) is fully consistent with Sections 73.622 and 73.623 of the Rules; (b) does not propose a maximum DTV facility; and (c) proposes to relocate KTAQ’s transmitter site in such a way that KTAQ’s DTV service area would be extended beyond its NTSC replicated area. Under this set of unusual facts, Paragraph 32 essentially inquires whether KTAQ’s pending DTV application is entitled to interference protection. For the reasons which follow, the answer should be a resounding “Yes”.

4. Simons urges that the Commission’s “maximization” inquiry in Paragraph 32 impedes a proper analysis of Sections (f)(1)(D) and (f)(7) of the CBPA by posing an inappropriate question, namely “What is ‘maximization’?” Simons submits that Section

(f)(1)(D)(ii) clearly defines “maximization” as any DTV service area proposal “consistent with ...Sections 73.622 and 73.623”. Likewise, in defining the service area replication component of interference protection, Section (f)(1)(D)(i) states that replication should be ensured “as provided for in Sections 73.622 and 73.623”. Most importantly, Section (f)(1)(D)(i) connects itself with Subsection (ii) by the critically important conjunction word “and”.

5. Therefore, Simons submits that the proper interference protection question to ask concerning Section (f)(1)(D) is: “What interference protection is a Class A applicant required to provide in resolving ‘technical problems’ with the DTV proposals of full-power stations?” The correct answer is: (a) Subsection (i) requires protecting whatever DTV proposal ensures “replication” of a full-power station’s NTSC service area and is consistent with Sections 73.622 and 73.623; and (b) under Subsection (ii), a proper DTV “maximization” proposal is any DTV proposal that is consistent with Sections 73.622 and 73.623. In short, there is nothing in Section (f)(1)(D) which limits interference protection to DTV proposals that “seek power and/or antenna height greater than the allotted values”. The limits are simply any “replication” that is consistent with Sections 73.622 and 73.623 and any “maximization” that is consistent with Sections 73.622 and 73.623. Furthermore, and importantly, Simons submits that Section (f)(7) of the CBPA does not require a different result, because, as demonstrated in Paragraph 1 above, Sections (f)(1)(D) and (f)(7) should be read as cumulative and maximizing interference protection devices for full-power stations, not as ways of minimizing a full-power station’s interference protection.

6. Applying these criteria to KTAQ’s pending application, it is entitled to full interference protection under Sections (f)(1)(D) and (f)(7) of the CBPA because it is consistent with Sections 73.622 and 73.623. The fact that KTAQ’s pending application does not propose “maximized facilities” but, instead, proposes to change the station’s transmitter site is simply

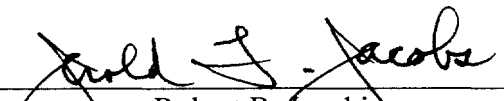
irrelevant. Because KTAQ's proposal is fully consistent with Sections 73.622 and 73.623 of the Rules, it is entitled to full interference protection.

7. Simons urges that the above analysis of Paragraph 32 of the NPRM and Sections (f)(1)(D) and (f)(7) of the CBPA is consistent with the letter and spirit of the CBPA and the paramount public interest, and provides the fairest balance of the respective rights of existing full-power licensees to DTV maximization and of LPTV licensees to Class A designation.

WHEREFORE, in light of the foregoing, Mike Simons respectfully requests that the Commission should adopt a Report and Order in this proceeding consistent with these Reply Comments.

Respectfully submitted,

MIKE SIMONS

By 
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Dated: February 22, 2000